

# BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

(Appointed by the Maharashtra Electricity Regulatory Commission  
under Section 42(6) of the Electricity Act, 2003)

## REPRESENTATION NOS. 122, 123 & 124 OF 2022

(REVIEW OF REPRESENTATION NOS. 31, 32 & 33 OF 2022)

In the matter of refund of infrastructure cost

1. M/s. Mahalakshmi Textiles and M/s. Renuka Textiles .....  
(Rep. 122 of 2022)
2. M/s. Suyog Packwell Industries .....  
(Rep. 123 of 2022)
3. M/s. Ankur Packaging Industries .....  
(Rep. 124 of 2022)

Review Applicants

V/s.

Maharashtra State Electricity Distribution Co. Ltd.

Ichalkaranji (MSEDCL)..... Rep.122 of 2022

Sangli (MSEDCL)..... Rep.123 and 124 of 2022

Appearances: -

Appellant : Pratap Hogade, Representative

Respondent : 1. P. T. Rathi, Executive Engineer, Ichalkaranji  
2. N.D. Ahuja, Addl. Ex. Engineer, Ichalkaranji  
3. Appaso Malhari Khandekar, Executive Engineer, Sangli

**Coram: Vandana Krishna [IAS (Retd.)]**

Date of Hearing : 6<sup>th</sup> December 2022

Date of Order : 18<sup>th</sup> January 2023

## ORDER

These Representations were filed on 23<sup>rd</sup> August 2022 under Regulation 22.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2020 (CGRF Regulations and EO Regulations 2020) for



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the review of the Common order dated 30<sup>th</sup> June 2022 passed in Representation Nos. 31, 32 & 33 of 2022 (the impugned order).

2. The Representation Nos. 31, 32 & 33 of 2022 were disposed of by the impugned order dated 30.06.2022 stating that the Appellants are not eligible for refund of infrastructure cost.


3. Aggrieved by the impugned order dated 30<sup>th</sup> June 2022, the above Applicants have filed the instant Representations for review. The written points along with the arguments for review of the impugned common dated 30.06.2022 are stated in brief as below:

(i) **Specified Refund Period & Concerned order dated 29.11.2010 in Case No. 24 of 2007 of Maharashtra Electricity Regulatory Commission (the Commission).**

**EO Observations & Ruling** – Hon'ble EO, in the Analysis and Ruling Part of its order in Para 32 of the order has quoted various Commission orders, ATE order & Hon'ble Supreme Court Order also. On the basis of these orders, EO stated & ruled in Para 33 (i) that **"It clearly means that the refund was limited to the period from 08.09.2006 to 30.04.2007"**. The same ruling & verdict is repeated in Para 33 (v), 33(ix), Para 34, Para 35 and Para 37 of the order. And only on the basis of this refund period, EO has ruled that the Appellants do not qualify for the refund of the infrastructure cost.

**Comments & Say** - The matrix defined by EO needs to be reviewed by EO itself. During hearing of these representations, the Applicants had requested the EO to go through the directions of the Commission dated 20.07.2017. It is clarified on the basis of the Commission order that the refund period starts from the date of Supply Code Regulations i.e., from 20.01.2005 but the EO has not taken any cognizance of the Commission Order dated 29.11.2010 in Case No. 24 of 2007 and also not considered the Commission's letter of directions dated 20.07.2017. The Commission's order and directions both are not discussed or considered by the EO in the impugned order dated 30.06.2022.

The Commission Order dated 29.11.2010 in Case No. 24 of 2007 was a review application filed by Maharashtra Rajya Veej Grahak Sanghatana (MRVGS) on 27.06.2007 seeking a review of the Commission order dated 17.05.2007 in Case No. 82

  
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of 2006, which was filed by MRVGS itself. The ground for the review was that the Commission has not considered the period prior, thereto that is from 20.01.2005 up to 07.09.2006. Vidarbha Industries Association has also supported it.

The Commission in Para 8 of the order dated 29.11.2010 in Case No.24 of 2007 has clearly ruled as below:

*"Having heard the parties on several dates and after considering the materials placed on record, the findings of the Commission are as follows,*

**(a) Review of Order dated May 17, 2007 in Case No. 82 of 2006.**

*The ground on which review has been sought is that the impugned order had not considered the period prior thereto that is from 20th January 2005 (that is the date of notification of the Supply Code) and upto 7th September, 2006. The Commission is of the view that the ground for seeking review is misconceived because in the said Order dated May 17, 2007, the Commission had inter alia issued the following directions :-*

***"9 .... While on the subject, the Commission directs that MSEDCL should not collect any monies under any charge-item which is not defined under the Supply Code and/or the Order dated September 8, 2006.***

*..... There shall be directions to MSEDCL in terms of the above." (Underlining and bold added)*

*The direction that MSEDCL should not collect any monies under any charge-item which is not defined under the Supply Code means that the impugned order had in fact considered the period from 20th January 2005 (that is the date of notification of the Supply Code) and upto 7th September 2006. On what basis the present review petition has been filed has therefore not been understood. Since the impugned order covers the period from the date of notification of the Supply Code no error has been found out on this count. The review is therefore rejected as not maintainable."*

It is clear from this order and the ruling that the specified period of refund starts from 20.01.2005 i.e., the date of Supply Code Regulations and not from dated 08.09.2006 i.e., the date of 'Schedule of Charges' order.

Hence, it is requested that the EO ruling should be corrected accordingly.



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(ii) **The Commission directions to MSEDCL, for implementation of the Hon'ble Supreme Court Order dated 20.07.2017 -**

**Say/Submissions** - The Commission in its letter of directions bearing no. MERC/Tech/FY 2017-18/3955 dated 20.07.2017 has clearly stated the order and details mentioned in the above submission. It has stated that -

*“4. The Commission vide its order dated 29th November 2010 has clarified that period of refund referred in its Order dated 17th May 2017 is from date of notification of Supply Code Regulations i.e., from 20th January 2005.”*

The relevant part of order dated 17<sup>th</sup> May 2017 is already reproduced above.

Hence it is necessary to modify EO ruling accordingly.


(iii) **MSEDCL Circulars dated 12.10.2017 and dated 29.12.2017 -**

**Facts** - MSEDCL has issued two circulars regarding the refund. Copies of both circulars are attached. In the first circular dated 12.10.2017, MSEDCL stated the Refund period from 20.01.2005 up to 30.04.2007. Thereafter MSEDCL issued Amendment Circular on 29.12.2017 and amended the refund period from 20.01.2005 up to 20.05.2008.

**Submissions** - It is clear from both the circulars that the starting date is 20.01.2005. Also, the last date verified and modified as 20.05.2008 is based on facts. It is a fact that the Commission had clarified the DDF concept vide its order dated 16.02.2008 and MSEDCL had issued its circular regarding DDF, Non DDF and refund on 20.05.2008. Hence the last date was modified by MSEDCL on the basis of its Board Resolution which is clearly stated in its circular dated 29.12.2017. It is a known fact to MSEDCL that the use of the words ORC, ORC(P) was continued after 30.04.2007 up to the date of the new circular dated 20.05.2008. Considering these facts MSEDCL itself has modified the last date. But, unfortunately, though clearly discussed while hearing, Hon. EO has not considered the facts. We request Hon. EO to please allow last date of specified refund as 20.05.2008 and oblige.

(iv) **EO ruling should be corrected -**

It is necessary to amend the starting date as 20.01.2005 because the Commission has clearly stated the starting date in its order dated 29.11.2010 in Case No. 24 of 2007. Also, last date should be corrected as 20.05.2008.

  
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Also, it should be noted that MSEDCL has already refunded the amounts of ORC, SLC and Metering Cost from 20.01.2005 up to 20.05.2008 on the basis of its own circular to many consumers. Hence, it is requested to please consider the above-mentioned orders and facts and modify the specified period accordingly.

**All Appellants are eligible for Refund -**

The impugned order in Para 39 has quoted the payment dates of supervision charges which are 12.06.2006, 13.12.2005 and 13.12.2005 in Rep. Nos. 31, 32, and 33 of 2022 respectively.

Considering the starting date as per the Commission order, all these Appellants are eligible for refund.

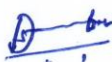
Hence, it is requested to allow and oblige.

(v) **Request for Condonation of Delay -**

The Common Order in Rep. Nos. 31, 32 and 33 of 2022 is passed on 30.06.2022. However, these review applications are submitted on 22.08.2022. It was necessary to submit review applications within 30 days /one month i.e. up to end of July 2022. The Applicants are late by 22/23 days. This delay is caused as initially the impugned order was not understood properly. Also, were not having the knowledge of review provisions and its procedure. Hence, it is requested to please condone this delay and consider these review applications on merit and oblige.

(vi) **Review Applications are maintainable -**

It is understood that the review can be submitted on limited grounds such as error apparent on the fact of the record or knowing the issues after the order etc. In the Applicants' opinion, these review applications are based on the **error apparent on the face of the record** because the Applicants had raised this issue while hearing, but it is nowhere recorded in the impugned order, or it may have happened inadvertently. Only after going through the impugned order, it is understood that this issue of starting date and last date was not discussed or decided considering the above-mentioned

  
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Commission's order, directions and concerned facts. **We have observed this only after receipt of the Ombudsman order.**

In view of the above, the Review Applications are fit on these grounds and hence maintainable. Hence, it is requested to please consider these Review Applications.


(vii) **Prayers -**

The prayers and reliefs sought are as below,

- a. Please condone the delay in submitting these Review Applications and decide the review on merits.
- b. The Applicants' connections should be declared as Non DDF, or ORC connections given in the specified refund period on the basis of Supply Code Regulations, concerned Commission Orders and concerned MSEDCL circulars.
- c. The expenditure amounts as per MSEDCL's own estimates should be refunded along with the interest thereon at bank rate from the date of payment upto the date of repayment, or alternatively all the total amounts should be credited in their further bills.
- d. Any other orders in the interest of justice.

4. The Respondent, MSEDCL Ichalkaranji filed its reply dated 15.11.2022 in respect of Representation No. 122 of 2022 for review of the impugned common order in Representation No. 31,32 and 33 of 2022 which is stated in brief as below:

- (i) This Review Application is to examine the matrix of the period 08.09.2006 to 30.04.2007 which is already elaborated in Rep. No. 31 of 2022 .
- (ii) The Commission, by its order dated 08.09.2006 in Case No. 70 Of 2005 regarding Schedule of Charges has rejected the Respondent's proposal to recover Service Line Charges (SLC) from prospective consumers except DDF consumers. The Commission had directed that the cost towards infrastructure from delivery point of transmission system to distribution mains should be borne by the Respondent.
- (iii) Not satisfied with the order dated 08.09.2006, the Respondent filed an appeal vide Case No. 22 of 2007 before the Appellate Tribunal for Electricity (APTEL).

  
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- (iv) The following were the issues challenged by MSEDCL against the Commission's order dated 8.9.2006. This point is reproduced below:

*“This appeal filed by the Maharashtra State Electricity Distribution Company Ltd. (for short, MSEDCL) is directed against the order passed on 08.09.2006 by the respondent, The Maharashtra Electricity Regulatory Commission (hereinafter called as the Commission or MERC) whereby the Commission did not approve the proposed “Schedule of Charges” including Service Line Charges submitted to the Commission in compliance to Regulation No. 18 of MERC (Electricity Supply Code and other Conditions of Supply) Regulations, 2005 (hereinafter to be called as Regulations 2005). The aforesaid Service Line Charges (for brevity to be called as SLC) as claimed by the appellant is on the basis of normative expenditure to be incurred on the infrastructure which are required to be created for bringing the distribution network closer to the Consumer premises.”*

This appeal was dismissed APTEL by its judgment dated 14.05.2007. The said order is reproduced as follows:

*“In view of the above, it is clear that the “Service Line Charges” as proposed by the appellant are being allowed to be recovered through tariff. If the aforesaid proposal on “Service Line Charges” made by the appellant is accepted it will amount to doubling of the recovery of the expenses from the consumers. The appeal is accordingly dismissed.”*

- (v) Thereafter, the Respondent filed further appeal against the APTEL judgment [vide C.A. No. 4305 of 2007(DPR No. 20340 of 2007)] before the Hon'ble Supreme Court. The Hon'ble Supreme vide its interim order dated 31.08.2007 directed a stay on the refund which was continued further. Finally, the refund of infrastructure cost i.e. SLC from the order date ***i.e. 8.9.2006 which was under challenge was*** dismissed by the Hon'ble Supreme Court on 10.11.2016.
- (vi) Further, the impugned order dated 30.06.2022 passed in Rep. Nos. 31 ,32 and 33 of 2022 in the matter of refund of infrastructure cost, has referred the orders of

  
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the Commission in paragraph 32 of which the relevant portion is reproduced as below :

- “(c) The Commission’s order dated **17.05.2007 in Case No. 82 of 2006**

[In the matter of refund of monies collected by MSEDCL towards Outright Contribution Charges (ORC) and cost of meter while providing new connections against the Order dated September 8, 2006, in Case No. 70 of 2005 (Schedule of Charges Order)].

Operative part of order in Case No. 82 of 2006 is reproduced below: -

“9. Having considered the material.....

(a) .....

(b) .....

(c).....

(d) *MSEDCL should submit a detailed compliance report under affidavit, with respect to refund of amounts collected from all consumers towards ORC, cost of meter and ‘CRA’, together with interests, **on and from September 8, 2006 (which the date of enforcement of the Order dated September 8, 2006, in Case No. 70 of 2005) up to April 30, 2007;***

(e) *MSEDCL should submit a detailed compliance report under affidavit, with respect to refund of the amount of Rs. 6500/- (collected under the head ‘CRA’) and the interest amount collected towards ORC, cost of meter and ‘CRA’ from Devang Sanstha.....*

*The Commission observes with concern that primarily incidences of collection of amounts towards ORC, cost of meter and ‘CRA’ post the operation of the Order dated September 8, 2006 in Case No. 70 of 2005 and the issuance of the Commercial Circular No.43 on September 27, 2006, are demonstrative of severe anomalies in the functioning of MSEDCL. The said acts have been overtly mechanical on the part of errant and negligent officials who have not paid adherence to the revisions in the erstwhile schedule of charges which have been mandated under the Order dated September 8, 2006. The Commission further observes that the stand taken by MSEDCL that their field officers should gain clarity on the implementation procedure enunciated under the Order dated September 8, 2006 within two weeks from April 13, 2007, is misconceived. The Commercial Circular No. 43 issued by MSEDCL themselves on September 27, 2006 provides for enough clarity on the import of the said Order. On the issues raised in the complaint as to refund of the depreciated value of amounts spent on DDF, as per Regulation 3.3.3 of the Supply Code*



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having not yet materialised in favour of various consumers, the Commission observes that the position of law is well settled under the Supply Code.

While on the subject, the Commission directs that MSEDCL should not collect any monies under any charge-item which is not defined under the Supply Code and/or the Order dated September 8, 2006. The Commission further observes that consumer representatives /organisations who/which are invited to attend hearings and/or make submissions, should ensure sufficient co-operation.

There shall be directions to MSEDCL in terms of the above. The Commission

reiterates that appropriate action under Section 142 of the EA, 2003 may be considered by the Commission on the Managing Director, Director (Operations) and Chief Engineer (Commercial) of MSEDCL, should the directives issued to MSEDCL under this Order not be complied with.”  
**(Emphasis added)**

- “(h) The Commission’s order dated 08.12.2014 in Case No. 105 of 2014 (In the matter of Petition of MRVGS for penal action against MSEDCL for breach of provisions of law in respect of new electricity connections to Agricultural consumers, and non-compliance of certain other directions).

The relevant portion is reproduced below: -

“16. MSEDCL appears to have complied with the direction to ascertain if additional charges beyond the approved Schedule of Charges were recovered during the relevant period from consumers, or publicly appeal to affected consumers and refund the charges. **Any remaining consumers can also approach MSEDCL, and the CGRFs if they do not get a response.** However, MSEDCL should submit to the Commission, before the Technical Validation Session (TVS) in respect of its pending MYT Petition, the number of consumers identified, and additional charges refunded or pending for refund so far.”

**Hence, it is clear that the period of 08.09.2006 to 30.04.2007 is the required period in refund cases. Other aggrieved consumers were given the option to independently approach MSEDCL / the CGRFs.**



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The Commission had established a grievance redressal mechanism and its regulation had come in force from 10<sup>th</sup> December 2003 which was later modified on 20<sup>th</sup> April 2006 and on 21<sup>st</sup> September 2020 and is valid till date.

- (vii) The Appellants are covered under Multi- Party Power loom Group connections where the Appellants have to incur the expenditure on their own, as they are the beneficiaries of the scheme, as all connections of power loom were given in one “premises” without any separation. Further, the concerned connections are multiparty consumers under one shed and therefore governed by Commercial Circular No. 6 dated 01.09.2005.

Further in the order passed by Hon Ombudsman in **Representation No.71, 72 73,74, 75 and 76 OF 2022I** in R/o **Multiparty Group** Smt. Suyash Yantramag Audyogik Sahakari Sanstha Maryadit and other 5.

**Representation No .77, 78, 79, 80, 81 and 82 OF 2022 in R/o Multiparty Group** M/s. Sangram Textiles and other 5.

Also in **Representation No 83 and 84 of 2022** in R/o Multiparty Group M/s Mahalaxmi Textiles **and** other 1. The paras are reproduced as below:

*“9. Under the above multi-party agreement, it is seen that the Appellants as well as the Respondent were both benefitted. In other words, this scheme got a good response precisely because it was a win-win situation for both parties.*

*10. The Appellants were benefitted in the following ways:*

- (a) Got supply for power looms under the LT tariff category with more Government subsidy than HT tariff category.*
- (b) Space constraint issue was solved for individual consumers, by providing supply to multiple consumers in one premises.*
- (c) Common infrastructure including distribution transformer, metering kiosk etc were developed by these multiple consumers in one premises resulting into reduction of cost.*
- (d) Less power interruption as the transformer and LT lines were dedicated to only these consumers.*



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- (e) *LT meters are installed in control panels in limited / compact space instead of separate CT meter box.*

*11. The Respondent was benefitted as below:*


- (a) *Common infrastructure was provided by these multiple consumers, thereby there was no burden on the Respondent to provide infrastructure, and hence, no budgetary provision was required to be made in its Annual Revenue Requirement.*
- (b) *Common energy audit meter was installed in addition to the individual meters so that if there was any considerable difference in the energy consumption, the loss in consumption units was proportionately imposed on them. Hence the energy consumed was automatically audited.*
- (c) *100% recovery against energy consumption was ensured, as supply of all would be disconnected even if one consumer defaulted.”*

Hence, it can be clearly seen that the benefits of the Multiparty connections are beneficial for both consumers and MSEDCL. In fact, the benefits of consumers are more than MSEDCL.

- (viii) In view of the aforesaid facts the present application does not have any merit factually as well as lawfully. Therefore, it may kindly be dismissed.

5. The Respondent MSEDCL Sangli has filed its replies dated 30.09.2022 in Rep. No. 123 and 124 of 2022 respectively which are stated in brief as below:

- (i) The main points of the Representations are already covered above in paragraph 4.
- (ii) Suyog Packwell Industries (Rep.No.123 of 2022) :- The initial date of supply was 10.10.2005 for 15 HP load. Its extension of load was released in February 2006. The payment of supervision charges was paid on 13.12.2005. Thereafter, the additional load from 15 HP to 114 HP was released immediately.

  
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Ankur Packaging (Rep.No.124 of 2022):- The payment of supervision charges was paid on 13.12.2005. Thereafter, the new connection was released on 02.02.2006.

- (iii) The estimate for load extension and new connection in both the representations respectively was sanctioned under ORC (P) scheme (Outright Contribution). It is also to be noted that both these consumers are power loom consumers and availed the benefit of multiparty power loom group.
- (iv) The CGRF Regulations came into force in the year 2003. This means the grievance redressal mechanism was established from 2003 onwards. Any Consumer having grievance ought to approach the Distribution Licensee in the form and manner and within the time frame specified by the Distribution Licensee in its rules and procedures for redressal of Grievances. If any Consumer is not satisfied with the remedy provided by the internal redressal system of the Respondent within two (2) months or where no remedy has been provided within such period, the Consumer had the opportunity to file the grievance before the Forum within twelve (12) months from the date of original complaint to the Respondent.

Subsequently, the CGRF Regulations 2006 came in force in 2006. As per Regulation 6.6 of CGRF Regulations 2006, the Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.

In the instant Representation, the consumers have filed the case with the Forum on 20.12.2019 for the first time while the **cause of action has arisen on 13.12.2005** in both the Representations. The Forum has rightly dismissed this case being not maintainable on limitation ground.

- (v) **The Consumer did not file any complaint within two years from the date of quotation paid. This date can be considered to be the date of making the investment for the execution of the ORC estimate. Hence, we have already held that this is the date of cause of action. The stay order of the Hon'ble Supreme Court came later, i.e. on 31.08.2007. Till then the regular grievance redressal mechanism was available, but was not availed of.**
- (vi) The Applicant is arguing that the date of cause of action is 12.10.2017 i.e. the date of MSEDCL Circular No-25079 dated 12.10.2017. The circular states that, "*The SLC, ORC and meter charges recovered from all such new LT/HT consumers in the*


  
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period 20.01.2005 to 20.05.2008 shall be refunded with interest as applicable after submission of original money receipt to respective MSEDCL offices.” “The SLC, ORC and meter charges shall not be refunded in the cases where consumers have opted for DDF supply”. Applicant has demanded refund of total expenditure amount of MSEDCL estimate i.e. Rs.1,53,650/- along with interest from February 2006. But in the circular dated 12.10.2017 it is nowhere mentioned that the cost of estimate or infrastructure expenditure amount has to be refunded.

- (vii) From the above it is clear that the date of cause of action is at the latest, February 2006. The consumer has not filed his complaint within the stipulated period of TWO years as per Regulation No.6.6 (now 7.8 of CGRF Regulation 2020), so it is clear that the complaint is **barred by limitation**.
- (viii) In the Circular No. 25079 dated 12.10.2017 it is clearly mentioned that, “The SLC, ORC and meter charges shall not be refunded in the cases where consumers have opted for DDF supply”. The ORC (P) scheme is nothing but similar to DDF in nature, hence the question of refund of infrastructure cost does not arise. Consumer is confusing between NON-DDF and ORC scheme. MSEDCL had not recovered any SLC, ORC and meter charges from the consumer. Only 15% ORC (P) supervision charges are recovered, which are nothing but similar to the prescribed 1.3% DDF supervision charges.
- (ix) The Forum has already dismissed the case on the ground of **barred by limitation**.
- (x) The Electricity Ombudsman has dismissed similar cases e.g. Rep.No.15 of 2021, 16 of 2021 and 17 of 2021.
- (xi) The present applications do not have any merit factually as well as lawfully. Therefore, it may kindly be dismissed.

6. Post hearing, the Applicant’s representative vide email dated 10.12.2022 has submitted a reply dated 07.12.2022 of the Respondent to his RTI application dated 17.11.2022 regarding details of Amendment in Refund Period.

  
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## Analysis and Ruling

7. Heard the parties and perused the documents on record. The Applicants have filed these reviews on 23<sup>rd</sup> August 2022 against the impugned order dated 30<sup>th</sup> June 2022 after 53 days, which is a delay of 23 days. The delay of filing these review applications is hereby condoned.

8. The various orders of the Commission, Judgment of the Tribunal and the Judgment of the Supreme Court concerning the issues in the Representations have been carefully scrutinised in the impugned order. However, the Applicants not being satisfied with the impugned order have filed this review. The Applicants have quoted the order dated 29<sup>th</sup> November 2010 passed in Case No. 24 of 2007 in the matter of seeking review of the order dated 17<sup>th</sup> May 2007 in Case No. 82 of 2006. The order dated 17<sup>th</sup> May 2007 in Case No. 82 of 2006 was on record and already considered in the impugned order. Similarly, the Commission's letter dated 20<sup>th</sup> July 2017 to Managing Director, MSEDCL regarding Compliance of Commission's directives regarding refund of amount recovered other than approved Schedule of Charges by the MSEDCL was also on record and already taken into consideration in the impugned order.

9. The Applicants' payment dates of supervision charges were 12.06.2006, 13.12.2005 and 13.12.2005 respectively, which is quoted in the original order, and thereafter the supply of the Applicants was released immediately. The said payment dates are tabulated below: -

Rep.No.	Consumer No. & Type of Connection	Purpose	Estimate Sanction Amount (Rs.) and Date	Scope of Work	Date of Payment of Supervision Charges	Date of Release of Connection
31 of 2022	250380142909 & 250380142917	New connection of 55 HP & 51 HP	Rs. 3,73,200/- dated 24.04.2006	11 KV HT Line: 0.28 KM, Distribution Transformer: 100 KVA and Metering Works	12.06.2006	09.11.2006
32 of 2022	279950175057	Load enhancement from 15 HP to 114 HP	Rs. 1,90,400/- dated 09.12.2005	LT line, Distribution Transformer Centre 100 KVA & concerned works and Metering Works	13.12.2005	Feb-06
33 of 2022	279950175324	New Connection of 137 HP	Rs. 15,36,500/- dated 9.12.2005	11 KV HT line 0.17 KM, Distribution Transformer Centre 100 KVA & concerned works and Metering Works	13.12.2005	02.02.2006



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10. At that time, the Applicants had an opportunity to approach **the internal redressal system of the Respondent with their grievances within a period of two (2) months. If no remedy had been provided within this period from the date of intimation, the Consumer could have submitted the Grievance to the Forum within twelve (12) months from the date of original intimation to the Distribution Licensee as per Consumer Grievance Redressal Forum and Ombudsman Regulations, 2003. However, they did not do so.** The said Regulation 6.2 /6.3 is reproduced as below:-

*“6.2 Any Consumer with a Grievance shall intimate the Distribution Licensee of such Grievance in the form and manner and within the time frame specified by the Distribution Licensee in its rules and procedures for redressal of Grievances.*

*6.3 Unless a shorter period is provided in the Act, in the event that a Consumer is not satisfied with the remedy provided by the internal redressal system of the Distribution Licensee to his Grievance within a period of two (2) months from the date of intimation or where no remedy has been provided within such period, the Consumer may submit the Grievance to the Forum. Provided that the Consumer shall submit his Grievance to the Forum no later than twelve (12) months from the date of original intimation to the Distribution Licensee.” (Emphasis added)*

11. According to the Respondent, in all three Representations, the Applicants had applied for electricity connections under the multiparty group which are governed by Commercial Circular No. 6 dated 01.09.2005. In Rep. 122 of 2022, M/s. Mahalakshmi Textiles and M/s. Renuka Textiles were the applicants for release of electricity connections under the multiparty group. At present, Renuka Textiles is permanently disconnected. In Rep. 123 of 2022 and 124 of 2022, Suyog Packwell Industries and Ankur Packaging Industries, both at Plot No-13, Survey No-195/196, Vasantdada Industries Estate, Sangli, Dist-Sangli are covered under the multiparty group.

12. We have already held that the cause of action of the current grievance arose in 2005 and 2006 when the supervision charges were paid. The Applicants have filed their grievance applications with the Forum in the year 2019 while the cause of action was created in 2005 and 2006. The Applicants ought to have approached the grievance redressal mechanism as per the CGRF Regulations 2003 and 2006 which was in force at that time. The grievance redressal mechanism could have entertained the grievance if filed within one year from the cause of action. We have already observed that the stay order of the Hon'ble Supreme Court came into

  
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force only on 31.08.2007. Thus, the Applicants had time from at least February 2006 to August 2007 to file their grievances. However, the Applicants approached the Forum only on 20.12.2019.

Again, after the Commission's order dated 08.12.2014, in Case No. 105 of 2014, the consumers had another opportunity to file their grievance. They did not do so.

13. All these issues have been recorded in the original order dated 30th June 2022 in Representation No. 31,32 & 33 of 2022, hence, no new evidence is seen to be discovered at this stage.

14. The scope of Review under the Regulation 22 of the CGRF & EO Regulations 2020 is very limited. The said Regulation is quoted below: -

*"22 Review of Order of Electricity Ombudsman*

*22.1 Any person aggrieved by an order of the Electricity Ombudsman, including the Distribution Licensee, may apply for a review of such order within thirty (30) days of the date of the order to the Electricity Ombudsman, under the following circumstances:*

*(a) Where no appeal has been preferred;*

*(b) on account of some mistake or error apparent from the face of the record;*

*(c) upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed.*

*22.2 An application for such review shall clearly state the matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or the mistake or error apparent from the face of the record.*

*22.3 The review application shall be accompanied by such documents, supporting data and statements as the Electricity Ombudsman may determine.*

*22.4 When it appears to the Electricity Ombudsman that there is no sufficient ground for review, the Electricity Ombudsman shall reject such review application: Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.*

*22.5 When the Electricity Ombudsman is of the opinion that the review application should be granted, it shall grant the same provided that no such application will be granted without previous notice to the opposite side or party to enable him to appear and to be heard in support of the order, the review of which is applied for."*

15. I am of the opinion, that all important issues in sum and substance have been covered in the original order. The review application is nothing but a repetition of the original



(Dilip Dumbre)  
Secretary

Electricity Ombudsman Mumbai





representation. The Applicants are trying to seek an appeal under the guise of review which is not permitted. The scope of review is very limited. The alleged mistake on the face of record in the order need not necessarily be searched through a microscope, it should be clearly visible at the first glance. The undersigned has power to review its ruling to correct a patent error and not a minor mistake of inconsequential import. This principle has been stipulated in many judicial pronouncements of the Constitutional Courts which are quoted below: -

(a) *Kamlesh Varma v/s Mayawati and Ors reported in 2013 AIR (SC) 3301, the Supreme Court has held as under: -*

*“8) This Court has repeatedly held in various judgments that the jurisdiction and scope of review is not that of an appeal and it can be entertained only if there is an error apparent on the face of the record. A mere repetition through different counsel, of old and overruled arguments, a second trip over ineffectually covered grounds or minor mistakes of inconsequential import are obviously insufficient.”*

(b) *In the matter of Jain Studios Ltd v/s Shine Satellite Public Co. Ltd. reported in (2006) 5 SCC 501, the Supreme Court held as under: -*


*“11. So far as the grievance of the Applicant on merits is concerned, the learned counsel for the opponent is right in submitting that virtually the Applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negated. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter. It is settled law that the power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection and only in exceptional cases.”*

16. In view of the above, we are of the considered view that there is no substance in this Review Application, and it is, therefore, rejected and disposed of accordingly.

17. The Applicants have referred some judgments of Hon’ble Supreme Court of India and Appellate Tribunal for Electricity which are not applicable in the instant representation.

18. The Representations are therefore rejected and disposed of accordingly.

Sd/  
(Vandana Krishna)  
Electricity Ombudsman (Mumbai)

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai

